

**UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD**

-----	X	
	X	
OMEGA, S.A.,	X	
	X	
Opposer,	X	
	X	
v.	X	Opp. No. 91,117,378
	X	Serial No. 75/282,523
PANCHACHARAM, SHAWN,	X	Mark: OMEGABYTE
	X	
Applicant.	X	
	X	
-----	X	

MOTION TO SUSPEND PROCEEDINGS

Pursuant to TMBP §510.03(a) and 37 CFR §2.117(c), Opposer, Omega S.A., through its undersigned counsel, hereby moves that this proceeding be suspended for purposes of finalizing settlement negotiations between the parties.

The Opposer moves the Board to suspend the proceedings, pending execution of an agreement.

The parties in this action came to terms on settlement, as reflected in the Motion To Suspend Proceedings On Consent of 2003 (attached as Exhibit A). Opposer had entered its Notice of Reliance. The Board resumed proceedings in December 2003. Defendant filed no evidence during its period.

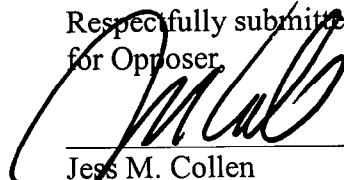
06-07-2004

In the intervening time, lead counsel at Plaintiff's firm, Mr. James Hastings, has recently left the firm, accepting a position out of the country. Opposer's current counsel, the undersigned, has picked up the file and tried to secure the final agreement. Counsel for the Applicant has advised Opposer's attorney's offices that they believed the matter had been settled and an agreement had been executed. (See further Declaration of Mariana Cana, attached as Exhibit B.) Opposer does not believe an executed agreement was exchanged between the parties, and Opposer's records indicate it has not been supplied with any such copies by the Applicant; the office of Opposer's attorneys understands the status of final settlement was pending execution and return of the Agreement document from the Applicant.

Rather than preparing and filing its trial brief in what may be an unnecessary act, Opposer's counsel prefers to resolve the apparent conflicting recollections of the parties regarding status of settlement agreement and, presumably, attend to final execution of an appropriate agreement which, notwithstanding the recollection of Applicant's lawyer, does not appear to have been executed by the parties.

In the alternative, Opposer moves for an extension of time to file its trial brief or motion for judgment, in light of the Applicant's failure to enter testimony, or in the event Applicant becomes unwilling or unable to execute the settlement document.

Respectfully submitted
for Opposer



Jess M. Collen

COLLEN IP
Intellectual Property Law
The Holyoke-Manhattan Building
80 South Highland Avenue
Ossining, New York 10562
(914) 941-5668 Tel.
(914) 941-6091 Fax

Attorney for Opposer

Dated: June 4, 2004
JMC:pm

Enclosures - Exhibit A
 - Exhibit B

COLLEN IP
Intellectual Property Law, P.C.
The Holyoke-Manhattan Building
80 South Highland Avenue
Town of Ossining
Westchester County, New York 10562

SHOULD ANY OTHER FEE BE REQUIRED, THE PATENT AND TRADEMARK OFFICE IS HEREBY REQUESTED TO CHARGE SUCH FEE TO OUR DEPOSIT ACCOUNT 03-2465.

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL, POSTAGE PREPAID IN AN ENVELOPE ADDRESSED TO: ASSISTANT COMMISSIONER FOR TRADEMARKS, 2900 CRYSTAL DRIVE, ARLINGTON, VIRGINIA 22202, THIS 4th DAY OF JUNE, 2004.

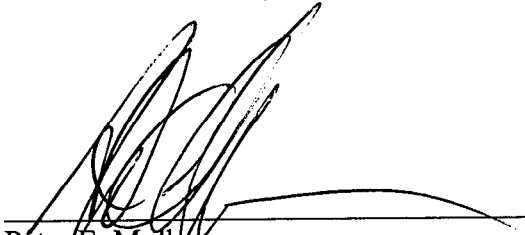
COLLEN IP Intellectual Property Law, P.C.

BY: 

DATE: June 4, 2004

CERTIFICATE OF SERVICE

I, Peter E. Mulhern, hereby certify that a copy of the foregoing MOTION TO SUSPEND PROCEEDINGS has been served via first class mail, postage prepaid, as well as via facsimile, on Steven D. Smit, Esq., Graves Dougherty Hearon & Moody, 515 Congress Avenue, Suite 2300, Austin, Texas 78701, on the 4th day of June, 2004.



Peter E. Mulhern

EXHIBIT A

**UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD**

	X	
	x	
OMEGA, S.A.,	x	
	x	
Opposer,	x	
	x	
v.	x	Opp. No. 117,378
	x	Serial No. 75/282523
PANCHACHARAM, SHAWN,	x	
	x	
Applicant.	x	
	x	
	X	

MOTION TO SUSPEND PROCEEDINGS ON CONSENT

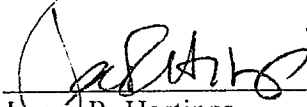
Pursuant to TMBP §510.03(a) and 37 CFR §2.117(c), Opposer, Omega S.A., through its undersigned counsel, hereby moves that this proceeding be suspended for purposes of ongoing settlement negotiations between the parties.

Counsel for Applicant, Steven D. Smit, Esq., has consented to this motion to suspend proceeding with counsel for Opposer, James R. Hastings, in a telephone conversation yesterday, April 15, 2003.

The parties have tentatively agreed to settlement terms and are finalizing the settlement agreement.

The parties further agree that, in the unlikely event that settlement is not effectuated, the Applicant's testimony period and all subsequent dates will be reset accordingly.

Respectfully submitted
for Opposer,



James R. Hastings
COLLEN IP
Intellectual Property Law
The Holyoke-Manhattan Building
80 South Highland Avenue
Ossining, New York 10562
(914) 941-5668 Tel.
(914) 941-6091 Fax

Applicant for Opposer

Dated: April 16, 2003

COLLEN IP
Intellectual Property Law, P.C.
The Holyoke-Manhattan Building
80 South Highland Avenue
Town of Ossining
Westchester County, New York 10562

SHOULD ANY OTHER FEE BE REQUIRED, THE PATENT AND TRADEMARK OFFICE
IS HEREBY REQUESTED TO CHARGE SUCH FEE TO OUR DEPOSIT ACCOUNT 03-
2465.

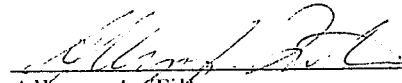
I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE
UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL, POSTAGE PREPAID IN AN
ENVELOPE ADDRESSED TO: ASSISTANT COMMISSIONER FOR TRADEMARKS, 2900
CRYSTAL DRIVE, ARLINGTON, VIRGINIA 22202, THIS 16th DAY OF APRIL 2003.

COLLEN IP Intellectual Property Law, P.C.

BY:  DATE: April 16, 2003

CERTIFICATE OF SERVICE

I, Allyssa A. Tillson, hereby certify that a copy of the foregoing MOTION TO SUSPEND PROCEEDINGS ON CONSENT has been served via first class mail, postage prepaid, as well as via facsimile, on Steven D. Smit, Esq., Graves Dougherty Hearon & Moody, 515 Congress Avenue, Suite 2300, Austin, Texas 78701, on the 16th day of April 2003.



Allyssa A. Tillson

EXHIBIT B

**UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD**

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	X	
OMEGA, S.A.,	X	
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Opposer,	X	
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	X	
Applicant.	X	
	X	
-----	X	

DECLARATION OF MARIANA CANA

I, Mariana Cana, hereby declare and state:

1. I am employed with the firm Collen IP, where I have worked since the year 1999. I am familiar with the trademark office rules, including those of the Trademark Trial and Appeal Board, and have had substantial responsibility for the firm docket during my tenure. I hold a J.D. from Pace University School of Law.
2. I telephoned counsel for the Applicant, Mr. Steven D. Smit today, in order to determine the status of this matter. Having no settlement agreement in our files, we sought agreement for further extension of time.
3. Mr. Smit advised that the case had been settled for "a couple of years" and that there was a signed agreement in his files, which are closed and inaccessible.
4. Our files show that an agreement was reached between Mr. Smit and Mr. Hastings, formerly of this firm but who recently departed to accept a business position in Argentina, in early 2003.
5. Subsequent to the Agreement, the parties sought and were granted a suspension.
6. Our office internal records reflect the fact that Mr. Hastings had made telephone calls to Mr. Smit seeking the signed Agreement from him, for countersignature, but that there is no evidence of having received either a signed Agreement or cover letter. To the contrary, our records seem to indicate that our office,

through Mr. Hastings and his assistants, had solicited the signed Agreement, but that it has not yet changed hands and that this matter still remains open.

The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true; and all statements made on information and belief are believed to be true.

Date:

65555 Declaration of M Cana 06 04 04

June 4, 2004

By:

Mariano Cana